

COURTROOM MINUTES OF CRIMINAL PROCEEDINGS
Norfolk/Newport News Division

SENTENCING MINUTES

Set: 2:00 p.m.
Started: 3:15 p.m.
Ended: 4:00 p.m.

Date: November 7, 2014
Judge: Rebecca Beach Smith
Court Reporter: Jody Stewart, OCR
U.S. Attorney: Emily Woods, USDOJ & Stephen Haynie, AUSA
Defense Counsel: Steven Duckett, ret. and David Benowitz, ret.
Courtroom Deputy: Susan Cherry
Probation Officer: Jeff Noll
Interpreter: _____

Case No. 2:14cr79-1
Defendant: Scott B. Miserendino, Sr. () In custody (X) On bond

X Came on for disposition.

USA's Motion for Acceptance of Responsibility (document #).

Granted. Denied.

X The court accepted the plea of guilty, and adjudged defendant guilty of Counts 1 and 4 of the Indictment, after defendant entered a plea of guilty before a Magistrate Judge. Order adopting the R&R and accepting the plea of guilty, filed in open court.

X The court directed local counsel, Steven Duckett, to sign the Plea Agreement and the Statement of Facts, pursuant to our Local Rule 57.4(D)(3).

X Presentence Report reviewed. Objections heard and rulings made.

Evidence presented. (Witnesses and exhibits listed on last page)

X Arguments of counsel heard. X Statement of defendant heard.

IMPRISONMENT:

SENTENCE: Counts 1 & 4 : The defendant shall be committed to the custody of the BOP to be imprisoned for a total term of months. This term consists of a term of 60 months on Count 1, and a term of 96 months on Count 4, all to be served concurrently. (See last page for court recommendations)

X The defendant shall self-report for the service of the sentence at the institution designated by the Bureau of Prisons within sixty (60) calendar days of November 7, 2014, at or before 3:00 p.m., on the sixtieth (60th) day. If an institution has not been designated by that time, the defendant shall self-report for service of the sentence to the United States Marshal's Office, 600 Granby Street, Norfolk, VA 23510, sixty (60) calendar days from November 7, 2014, at or before 3:00 p.m., on the sixtieth (60th) day.

SUPERVISED RELEASE:

 X Upon release from imprisonment, the defendant shall be on supervised release for a term of _____ years. This term consists of a term of 3 years on Count 1, and a term of 3 years on Count 4, all to run concurrently. The defendant may be considered for early termination of supervised release after successfully completing a minimum of two (2) years, upon the recommendation of the probation officer.

Special Conditions of Supervised Release:

- 1) The defendant shall continue to participate in a mental health treatment and counseling program at the direction and discretion of the probation officer. The defendant shall bear the costs of this program.
- 2) The defendant shall continue to participate in a substance abuse treatment and counseling program, to include residential treatment if necessary, at the direction and discretion of the probation officer. The defendant shall bear the costs of this program.
- 3) The defendant shall waive all rights of confidentiality regarding medical/mental health treatment in order to allow the release of information to the United States Probation Office and authorize communication between the probation officer and the treatment provider.
- 4) The defendant shall provide written notification of the nature of his conviction to any employer he may have during his period of supervised release. A copy of this written notification shall be submitted to the probation officer, and the probation officer shall verify that the defendant's employer received his notification.
- 5) During the term of supervised release, the defendant is prohibited from engaging in any employment in which his duties involve the procurement or award of government contracts.
- 6) The defendant shall provide the probation officer access to any requested financial information.
- 7) During the period of supervised release, the defendant shall provide a copy of his federal and state tax returns each year to the probation officer.
- 8) The court does not deny federal benefits because the denial is not applicable.

FINANCIAL PENALTIES

 X The court waives the cost of prosecution, incarceration, and supervised release, except to the extent the defendant will have to bear costs as outlined in the Special Conditions of Supervision.

SPECIAL ASSESSMENT:

 X As to count 1 , the defendant shall pay a special assessment in the amount of \$100.00.

 X As to count 4 the defendant shall pay a special assessment in the amount of \$100.00.

The total special assessment due is \$200.00 and shall be due in full immediately. The court notes that the special assessment has been paid.

FINE:

 X No fines have been imposed in this case.

 The defendant shall pay a fine in the amount of \$.

RESTITUTION:

 The defendant shall make restitution in the amount of \$.

 Restitution Judgment Order, entered and filed in open court.

SCHEDULE OF PAYMENTS:

 Interest on the restitution has been waived.

 Interest accrues as provided in 18 U.S.C. § 3612(f).

 The special assessment/fine/restitution is due and payable immediately. The defendant shall pay to the Clerk at least \$ per month beginning sixty (60) days from the inception of supervised release toward any restitution remaining unpaid. The court reserves the option to alter this amount, depending upon defendant's financial circumstances at the time of supervised release and depending upon how much restitution has been paid.

 Restitution shall be made jointly and severally with

_____ Nothing in the Court's order shall prohibit the collection of any judgment or fine by the United States.

_____ The defendant notified of right of appeal.

 X Court noted that defendant waived right of appeal in plea agreement.

 X On motion of the government, remaining counts dismissed.

_____ The defendant is continued on present bond and cautioned re bail jumping.

 X Consent Order of Forfeiture, executed and filed in open court.

Additional Counts/Comments:

- X The Court makes the following recommendations to the Bureau of Prisons:
- 1) The defendant shall undergo a mental health evaluation and shall receive all appropriate mental health treatment and counseling deemed appropriate.
 - 2) The probation officer shall forward under seal to the Bureau of Prisons Dr. Fiester's mental health evaluation report of the defendant.
 - 3) The defendant shall receive a full medical evaluation and shall receive all appropriate medical treatment for any conditions he may have.
 - 4) The defendant shall participate in a substance abuse treatment program, to include the Residential Drug Abuse Treatment Program (RDAP), and with a focus on alcohol abuse.
 - 5) The court recommends that the defendant be incarcerated in the facility at Petersburg, Virginia, if possible, or on the East Coast as close to the Virginia area as possible.